

SDR-922-92-03  
MTM 77366 (922.8)

P 114 728 214

June 19, 1992

CERTIFIED-RETURN RECEIPT REQUESTED

Decision

Harvey Damstrom  
Balcron Oil ) SDR NO 922-92-03  
P.O. Box 21017 )  
Billings, MT 59104 )

Affirmed as Modified

Balcron Oil's (Balcron) April 28, 1992, letter, requested a State Director Review (SDR) of an April 9, 1992, Decision of the Great Falls Resource Area Manager (GFRA). The request was timely received on April 29, 1992. On May 7, 1992, this office informed Balcron that, in order to fully address the issues raised in the request for the SDR, we would ask the GFRA to provide an explanation for the increase in drainage factor (DF). We received that response on May 20, 1992 (Enclosure 1).

The GFRA Decision increased the DF for Drainage Case No. 869, involving Federal oil and gas lease MTM 77366. The offending well is the McCracken 1C-23 gas well, located 990 feet south of this Federal lease. The DF was increased from 6.51 percent in the original September 27, 1991, assessment (Enclosure 2) to 6.83 percent. The Lewistown District Office (LDO) issued the September 27, 1991, assessment letter since at that time the program was administered out of that office. The LDO used the DF calculated using Montana Power Company's (MPC) drainage area rather than the DF calculated from its own determination of the drainage area for the McCracken 1C-23 well. You request review of the April 30, 1991, assessment for drainage (Enclosure 3). You also request review of the Decision increasing the DF.

Assessment

The drainage assessment letter issued by the LDO on April 30, 1991, applied to lease MTM 22721. It did not assess compensatory royalties for drainage from lease MTM 77366. The September 27, 1991, Decision letter assessed compensatory royalties for drainage from lease MTM 77366. This decision letter was not subsequently appealed. Therefore, review of this Decision is moot.

Increase in Drainage Factor

Our review of the Engineering Drainage Report prepared by the LDO (Enclosure 4) revealed both the 6.51 percent and 6.83 percent DFs. The LDO states that the 6.51 percent DF was obtained by using the MPC's estimate of 644 acres as the drainage area for the McCracken 1C-23 well.

The 6.83 percent DF was obtained by using the LDO's own value of 588.76 acres as the drainage area of the McCracken 1C-23 well. The casefile is clear in establishing the DF at 6.83 percent. It is apparent that the LDO used the wrong DF in its September 27, 1991, Decision. The GFRA is correct in its Decision notifying your company of the error.

The increase in the DF would increase your royalty payments. Since you were adversely affected by the GFRA Decision, you had the right to appeal that Decision to this office. For this case, the administrative costs in dealing with the appeals process would be in excess of the estimated increased compensatory royalties expected from increasing the DF since the amount of difference is so minimal.

We, therefore, affirm the Decision of the GFRA in notifying your company of the error. However, you will only be liable for paying compensatory royalties based upon the 6.51 percent DF provided in the September 27, 1991, Decision. As such the 6.51 percent as provided in the September 27, 1991, Decision, remains unchanged.

This Decision may be appealed to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR 4.400 and Form 1842-1 (Enclosure 5). If an appeal is taken, a Notice of Appeal must be filed in this office at the above address within 30 days from receipt of this Decision. A copy of the Notice of Appeal and of any statement of reasons, written arguments, or briefs must also be served on the Office of the Solicitor at the address shown on Form 1842-1. It is also requested that a copy of any statement of reasons, written arguments, or briefs be sent to this office. The appellant has the burden of showing that the Decision appealed from is in error.

Sincerely

/s/ Donald L. Gilchrist

Donald L. Gilchrist  
Acting Deputy State Director  
Division of Mineral Resources

5 Enclosures

- 1-Copy of May 19, 1992, memorandum from the GFRA (1 p)
- 2-Copy of September 27, 1991, Decision of the GFRA (7 pp)
- 3-Copy of April 30, 1991, Decision of the LDO (2 pp)
- 4-Engineering Drainage Report for case No. 869 (10 pp)
- 5-Form 1842-1 (1 p)

cc: (w/o encls.)  
GFRA